



4-7-05  
pat No 6296775

DSP

TO: The Honorable Commissioner of Patents  
P.O. Box 1450  
Alexandria, Va. 22313-1450

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APR 11 2005  
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CERTIFICATE OF EXPRESS MAIL

RECEIPT NUMBER: ED 251777307 US

U.S. Patent No. 6,296,775

I, James F. Leggett, attorney for applicants, Kenneth W. Moody and Janet L.

Dally, hereby Certifies that the following documents were deposited with the United States Postal Service, the Express Mail fee prepaid thereon and properly addressed to the Commissioner of Patents and Trademarks on this date:

1. Notice of Customer Number Record Change 03/28/2005;
2. Filing Receipt Appl. No. 60/660,339, 03/11/2005; ✓
3. Office Action Appl. No. 11/000,127, 03/29/2005;
4. Notice of Allowance Appl. No. 10/373,852, and Determination of Patent Term Adjustment, Notice of Allowability, 03/30/2005;
5. Office Action Summary Appl. No. 10/615,024, 03/22/2005;
6. Office Action Summary Appl. 10/773,282, 03/22/2005; ✓
7. Notice of Allowability Appl. No. 10/732,478, 03/21/2005;
8. Fees Transmittal Appl. No. 29,222,898, Notice of Allowability and Determination of Patent Term Adjustment, 03/29/2005;
9. Office Action Summary Appl. No. 10/288,288, 03/21/2005;
10. Office Action Summary Appl. No. 09/796,347, 03/09/2005;
11. Notice of Allowance and Fee(s) Due Appl. No. 10/659,348, Fee(s) Transmittal, Determination of Patent Term Adjustment, Notice of Allowability, 03/31/2005;
12. Notice of Abandonment Appl. No. 10/295,837, 03/31/2005;
13. Notice of Abandonment Appl. No. 10/620/600, 03/31/2005;
14. Certificate of Express Mail.

Please take Notice that my client, Kenneth Moody, has been and continues to receive correspondence for Patent Counsel erroneously listed on the Notice of Customer Number Record Change dated 03/28/2005. His request for number change was solely for his Renewal of U.S. Patent No. 6,296,775. Please correct your computer records and remail the enclosed to the correct Patent Counsel or Applicant. We will forward additional correspondence for your convenience and the



convenience of the other applicants and Patent Counsel. Please acknowledge to me that you have corrected the problem.

Dated this 5th day of April, 2005

JAMES F. LEGGETT

Registered patent Attorney

Registration No. 28,733

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Tacoma, Washington 98405

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### Office Action Summary

**Application No.**

10/773,282

**Applicant(s)**

BERARD, PAUL W.

**Examiner**

Joseph A. Kaufman

**Art Unit**

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/9/2004</u> . | 6) <input type="checkbox"/> Other: ____.  |

***Claim Rejections - 35 USC § 112***

1. Claims 7 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The concave surface in claims 7 and 11 is positively recited for a second time. This raises issues of double inclusion.

2. Note, in claim 11, line 2, "ahs" should be "has".

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Redmond, Sr. et al. in view of Kreiseder et al.

Redmond, Sr. et al. shows a plastic bottle 22; ends 26, 28; container portion 20; neck portion 48; collar at the end of 48; and threads 50, 38. The bottle widths are clearly shown in Figure 2. Redmond, Sr. et al. lacks the details of the cap. Kreiseder et al. shows a two piece cap 10; ribbed surface/base cover 12; hinged upper component/flip cover 20; concave surface 24 seen in Figure 5; threads 16; and hinge strap 32. It would have been obvious to one of ordinary skill in the art to substitute the hinged cap for the removable cap of Redmond, Sr. et al. in order to prevent loss or misplacing of the cap when the device is opened. Note, the height of the container

Art Unit: 3754

being less than four times the diameter of the base would have been obvious in order to ensure the stability of the device. Finally, dispensing a condiment would have been obvious as a condiment is a viscous liquid along the lines of the hair care product dispensed by Redmond, Sr. et al. and would have been an obvious use of the dispenser.

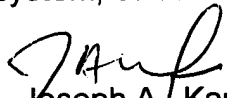
### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ehrbar, Morali et al., and Bonnigie show other bottom dispensing devices.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph A. Kaufman whose telephone number is (571) 272-4928. The examiner can normally be reached on Monday-Thursday, 5:30AM-2PM.

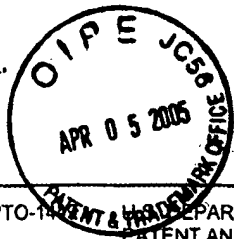
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Joseph A. Kaufman  
Primary Examiner  
Art Unit 3754

3/28/05

jak  
March 28, 2005



FORM PTO-14 INFORMATION DISCLOSURE CITATION IN AN APPLICATION  (Use several sheets if necessary)	ATTY DOCKET NO. 23494.00	SERIAL NO. Unassigned
	APPLICANT Paul A. BERARD	
	FILING DATE Unassigned	GROUP Unassigned

## U.S. PATENT DOCUMENTS

Examiner Initials	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE If appropriate
JAK	US 2002/0074367 A1	06/2002	KAWAKITA, K.			
	US RE37,566 E	03/2002	CRISTEA et al.			
	2,076,826	04/1937	REINBERG, P.			
	2,078,149	04/1937	LUTZ, C.B.			
	3,402,844	09/1968	CHIN, W.S.C.			
	4,271,878	06/1981	BOLOGA, E.			
	4,723,671	02/1988	MEARS, G.L.			
JAK	5,037,005	08/1991	APPLEBY, P. et al.			

## FOREIGN PATENT DOCUMENTS

	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	Translation YES NO
JAK	WO 92/21569	12/1992	PCT (CANADA, APPLEBY, P. et al)			
JAK	2 690 423	04/1993	FRANCE (TOUVRON, J.)			X

## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, etc.)


EXAMINER

DATE CONSIDERED

3/22/05

EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include a copy of this form with next communication to applicant.

FORM PTO-1449	U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE	ATTY DOCKET NO. 23494.00	SERIAL NO. Unassigned
INFORMATION DISCLOSURE CITATION IN AN APPLICATION  (Use several sheets if necessary)		APPLICANT Paul A. BERARD	
		FILING DATE Unassigned	GROUP Unassigned

## U.S. PATENT DOCUMENTS

Examiner Initials	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE If appropriate
JAA	5,105,860	04/1992	CONNOR, A.B..			
	5,146,957	09/1992	BELOKIN, JR., P. et al.			
	5,263,787	11/1993	WILCOX, R.N. et al.			
	5,460,298	10/1995	DIBIASE, A.K. et al.			
	5,950,698	09/1999	CRISTEA, D.M. et al.			
	5,957,336	09/1999	RADASSAO, D. et al.			
JAA	US 6,345,723 A1	02/2002	BLAKE, V.G. et al.			

## FOREIGN PATENT DOCUMENTS

DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	Translation YES NO

## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, etc.)


EXAMINER  JAA	DATE CONSIDERED  3/22/05
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EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include a copy of this form with next communication to applicant.

**Notice of References Cited**

Application/Control No.

10/773,282

Applicant(s)/Patent Under

Reexamination

BERARD, PAUL W.

Examiner

Joseph A. Kaufman

Art Unit

3754

Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-5,421,488	06-1995	Ehrbar, James J.	222/185.1
	B	US-5,868,288	02-1999	Redmond et al.	222/562
	C	US-5,996,850	12-1999	Morali et al.	222/173
	D	US-6,116,477	09-2000	Kreiseder et al.	222/556
	E	US-2002/0014499	02-2002	Bonningue, Philippe	222/185.1
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.